

### **REMARKS**

The Applicant has received and reviewed the Final Official Action mailed by the Office on 21 June 2005 (hereafter, the "Final Action"). Applicant respectfully requests reconsideration and allowance of the subject application. Claims 1-20 are pending in the application.

### **Information Disclosure Statement**

The Office requests a copy of the Patent Application associated with express mail label EU990163769US. This document corresponds to pending U.S. Patent Application serial number 10/728,143, which is listed on an Information Disclosure Statement (IDS) included herewith. The Applicant requests consideration of this IDS.

### **35 U.S.C. §102**

As stated on Page 2 of the Final Action, claims 1-2, 4-10, and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,470,642 to Ready (hereinafter "Ready"). Applicant respectfully traverses these rejections.

**Independent claim 1** is amended to more clearly define the pipe holder. The revisions to claim 1 are believed fully supported at least by the Applicant's Figures 1 and 2, and by related description in the Applicant's specification. Claim 1 as amended is reproduced here for convenience, with redlines shown:

"1. (Currently amended) A pipe holder, comprising:

a body member having a first end and a second end, ~~wherein the body member defines an opening proximate the first end of the body member;~~ and

a support member extending away from the body member at a point intermediate of the first end and the second end such that the pipe holder has a generally T-shaped configuration, wherein the body member and the support member are integral with one another, wherein the support member and the first

end of the body member include respective means for engaging a structure external to the pipe holder, and wherein the second end of the body member defines an opening for receiving the pipe."

Ready fails to disclose this structure. Ready pertains generally to a clamp support. Without conceding that Ready provides the teaching for which it is cited in the Action, the Applicant submits that Ready's members 23, 13, and 16 (as shown in Figure 4) do not provide a pipe holder having a generally T-shaped configuration, as recited in claim 1.

The Applicant also submits that if the claimed "body member" is read onto Ready's reference 16, then Ready fails to disclose a "second end of the body member defin[ing] an opening for receiving the pipe", as recited in claim 1. Ready's reference 16 does not include an opening for receiving the pipe.

Finally, the Applicant submits that Ready does not disclose a body member and support member that are integral with one another. Assuming that the claimed "body member" is read onto Ready's reference 16, and that the claimed "support member" is read onto Ready's reference 23, Ready's members 16 and 23 are not integral with one another.

Accordingly, Ready does not support a § 102 rejection of claim 1. Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of claim 1.

**Claims 2, 4-10, and 12** are allowable over Ready by virtue of their dependency on claim 1.

As stated on Page 3 of the Action, claims 13-18 and 20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,692,719 to Maloney (hereinafter "Maloney").

**Independent claims 13 and 20** are amended to more clearly define the pipe holder component of the ladder. The revisions to these two claims are similar to those discussed above

in connection with claim 1, and are believed fully supported on the same basis as were the revisions to claim 1 discussed above. The further features added to claim 20 are believed supported by Figures 6 and 8 of the Applicant's drawings, and by corresponding description in the Applicant's specification.

As amended, claim 13 recites a pipe holder having a body member and a support member, where the support member extends "approximately perpendicularly from the body member at a point intermediate of the first end and the second end such that the pipe holder has a generally T-shaped configuration, wherein the body member and the support member are integral with one another, wherein the support member and the first end of the body member include respective means for engaging a structure external to the pipe holder, and wherein the second end of the body member defines an opening for receiving the pipe."

As amended, claim 20 recites a pipe holder having a body member and a support member, where the support member is "extending away from the body member at a point approximately midway between the first end and the second end such that the pipe holder has a generally T-shaped configuration, wherein the body member and the support member are integral with one another, and wherein the support member and the first end of the body member include respective hook portions for engaging the crossmember; and wherein the pipe holder is connected to the crossmember so as to dispose the length of pipe perpendicularly to the crossmember."

Maloney does not disclose the ladders defined in claims 13 and 20. Maloney describes a fire nozzle holder. It has a platform 10 for supporting the fire nozzle, and support arms 14 that project in approximately the same plane as the platform to support the platform. The support arms 14 converge to a point at one end of the platform 10.

Maloney does not disclose a "pipe holder" having the features as recited in claims 13 and 20. More particularly, if the claimed "body member" is read onto Maloney's reference 10 and if the claimed "support member" is read onto Maloney's reference 18, then Maloney's member 10 and 18 are clearly not integral with one another, as recited in claims 13 and 20.

On at least this basis, Maloney does not support a § 102 rejection of claims 13 and 20. Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of claims 13 and 20.

**Claims 14-18** are allowable over Maloney by virtue of their dependency on claim 13.

### **35 U.S.C. §103**

As stated on Page 5 of the Final Action, claims 1, 5, and 10-11 stand rejected 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,185,418 to Appleton (hereinafter, "Appleton"). Applicant respectfully traverses these rejections.

Turning first to **independent claim 1**, this claim was revised, as discussed above, to recite that "the body member and the support member are integral with one another". The Action read the claimed "body member" onto Appleton's references 10 and 26 together, and read the claimed "support member" onto a portion of Appleton's reference 26. The Applicant agrees with the assessment on Page 5 of the Action that Appleton does not disclose that Appleton's members 10 and 26 are integral. However, the Applicant traverses the assertion in the Action that it would be obvious to one of ordinary skill in the art to make Appleton's members 10 and 26 integral.

More particularly, Appleton provides no incentive or suggestion to make its members 10 and 26 integral. Furthermore, those of ordinary skill in the art would recognize that doing so would frustrate or defeat the function of Appleton's hanger. During installation, Appleton's

hanger 10 receives a conduit, and Appleton's beam clip 26 is engaged to building structure, such as an I-beam or C-beam. Appleton's hanger 10 is attached to the beam clip 26 by a screw 19, enabling the hanger 10, and the conduit received thereby, to adopt any angular relationship to the beam clip 26 during installation. This adjustable angle between the beam clip 26 and the hanger 10 is helpful, since conduits may adopt an infinite variety of angular relationships to the beam structure along or across which they may be run. More specifically, conduits may be run parallel to a beam, perpendicular to a beam, or any angle in between. However, making Appleton's hanger 10 and the beam clip 26 integral or one-piece defeats this angular adjustability, which would make the Appleton device much less useful in actual applications.

To practice the modification of Appleton as proposed in the action, one would essentially have to manufacture different versions of the Appleton device for each different angular relationship between the hanger 10 and the beam clip 26 that would be possible in real-world installations. This would result in bringing an almost infinite array of different Appleton devices to market. Those of ordinary skill in the art would readily recognize the cost and complication of doing so, and would see this cost and complication as a powerful disincentive not to perform the modification suggested in the Action.

For at least the foregoing reasons, Appleton does not support a § 103 rejection of claim 1. Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 1. Claims 5 and 10-11 depend directly or indirectly from claim 1, and stand rejected on similar grounds. Thus, the foregoing comments apply equally to claims 5 and 10-11

As stated on Page 5 of the Final Action, claim 3 stands rejected under § 103 as being unpatentable over Ready. Claim 3 depends from claim 1, so all comments above directed to

claim 1 apply equally to claim 3. On at least this basis, the Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 3.

As stated on Page 6 of the Final Action, claim 19 stands rejected 35 U.S.C. § 103(a) as being unpatentable over Maloney. Applicant respectfully traverses the rejection.

Claim 19 depends from claim 13 and hence incorporates the elements of claim 13. Accordingly, the comments directed above to claim 13 apply equally to claim 19.

Additionally, while the Applicant agrees with the assessment on Page 6 that Maloney does not disclose making its pipe holder integral, the Applicant respectfully traverses the assertion in the Action that it would be obvious to make Maloney's device integral or of one-piece construction.

Not only would the modification of Maloney as proposed in the Final Action contradict Maloney's express teaching, but it would also undermine the utility of the Maloney device. For example, in column 3, lines 5-20, Maloney describes the support arms 14 as pivotally attaching to the base 10, and describes the straps 18 s flexible. Thus, making the Maloney device have an integral, one-piece structure would contradict Maloney explicitly teachings.

Furthermore, modifying Maloney as proposed in the Action would frustrate one of Maloney's stated goals, namely to provide a fire nozzle holder of compact construction and having foldable support means that may be easily stored (see, Maloney, e.g., column 1, lines 40-45). On at least the foregoing basis, Maloney does not teach or suggest the features recited in claim 19 and in claim 13.

On at least this basis, the Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 19.

**Conclusion**

Claims 1-20 are in condition for allowance. Applicant respectfully requests prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Examiner is requested to contact the undersigned attorney to resolve the issue.

Respectfully submitted,

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